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JUN 26 2007

In re Application of	:	OFFICE OF PETITIONS
Xiaoyang Qi	:	
Application No. 10/801,517	:	DECISION ON PETITION
Filed: March 16, 2004	:	
Attorney Docket No.	:	
00108720529639	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

No Notice of Abandonment has been mailed in this application. However, the application is abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 16, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal

disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C).

This petition lacks item (3) above. In this regard, the statement of unintentional delay in the petition is directed towards a failure to timely notify the Office of the filing of a foreign application. However, as this application became abandoned for failure to file a timely and proper reply to the final Office action of November 16, 2006, the statement of unintentional delay should have stated: "The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." The incorrect petition form was used for seeking revival of this application, especially in view of the fact that this application could not have gone abandoned for failure to timely notify the Office of the filing of a foreign application as there was no nonpublication request on filing of this application. The correct petition form number is PTO/SB/64.

In order to expedite processing of the renewed petition under 37 CFR 1.137(b), petitioner may wish to contact the undersigned of the filing thereof.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:            Mail Stop PETITION  
                          Commissioner for Patents  
                          P. O. Box 1450  
                          Alexandria, VA 22313-1450

By hand:            U. S. Patent and Trademark Office  
                          Customer Service Window, Mail Stop Petitions  
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                          401 Dulany Street  
                          Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.



Frances Hicks

Petitions Examiner  
Office of Petitions